

3:18cv697

# Exhibit 1

Page 1 of 2.

FILED  
SCRANTON

MAR 30 2018

PER AMO  
DEPUTY CLERK



# COUNTY OF LEHIGH

## Human Resources

M. Judith Johnston  
Human Resources Officer

February 2, 2018

Chev. Rev. Edward Kennedy  
401 Tillage Road  
Breinigsville, Pa. 18031

Dear Rev. Kennedy:

I am responding to your Right to Know request of December 19, 2017, sent to Sheriff Joseph N. Hanna to review your request for the following, "to see in person all police records and documents from an incident that occurred at my residence, listed above at approximately 2 PM Eastern Daylight time on Friday, June 2, 2017, including vehicles marked Lehigh County Sheriff, when approximately thirty local, county and state police appeared at the residence claiming Edward Kennedy is a "sovereign citizen." I am most interested in the following: who gave such an order? Second, by what authority? And third, who was here at the residence and why? ie all evidence and authorities/statutory elements?"

I am denying your request to see the police records as the request is an exemption under records related to a criminal investigation listed at 65 P.S. §67.708(b) (16).

Regarding your request as to who gave an order and by what authority, I am providing you with a copy of the Bench Warrant signed by Judge William E. Baldwin, dated April 12, 2017. Deputy Sheriffs were at the residence to exercise their law enforcement responsibility to execute a Bench Warrant signed by Judge Baldwin.

You have a right to appeal this decision in writing to the Office of Open Records Commonwealth Building, 400 North Street 4<sup>th</sup> Floor, and Harrisburg, Pa. 17102. If you choose to file an appeal, you must do so within 15 business days of mailing of this Agency's response, as outlined in Section 1101. And appeal has to be submitted in writing. You can use the appeal form from the Pennsylvania Office of Open Records Website or the appropriate form on the County of Lehigh website.

Please be advised that this correspondence will serve to close this record with our office as permitted by law.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Judith Johnston".

M. Judith Johnston

Exhibit 1

Page 2 of 2.

May 1, 2017 3:19PM State Police Fogelsville

No. 5773 P. 6

Commonwealth of Pennsylvania  
 Court of Common Pleas  
 County of Schuylkill  
 21st Judicial District

Bench Warrant  
Failure to Appear

Schuylkill County Clerk of Courts  
 401 North Second Street  
 Pottsville, PA 17901  
 PH: 570-628-1288

Commonwealth of Pennsylvania

v. Edward Thomas Kennedy

Schuylkill County, APR 12 2017

P.

SCHUYLKILL COUNTY COURT OF COMMON PLEAS

Issued For: Edward Thomas Kennedy

OTN: T 882209-6 SID: 77

Date Citation/Complaint Filed: 01/12/2017

NCIC OFF: FAILURE TO APPEAR - SEE MIS.

OCC:

Warrant ID: CPCMS702722464

Citation/Complaint No: 2017 0060  
 Docket No: CP-64-CR-000293-2017  
 Warrant Control No: 54-BA-0000368-2017  
 Manual Control No:

Charging Officer: Philip C. Petrus, Frackville Borough Police  
 Dept:

Lead Offense: 18 § 2709 §§ A7 Harassment - Comm. Repeatedly In Another Manner (Held for Court)

AND NOW, this 12th day of April, 2017, the Sheriff of Schuylkill County, or any other police officer, is hereby ORDERED to convey and deliver Edward Thomas Kennedy, residing at 1800 Leithsville Rd Pmb 240 Hellertown, PA 18055, into the custody of the Court of Common Pleas of Schuylkill County, at Schuylkill County Courthouse 401 North Second Street Pottsville, PA 17901 for a hearing. If the Court is unavailable, the individual may be held in the County Jail until the Court is opened for business, at which time the individual shall be promptly conveyed and delivered into the custody of the Court.

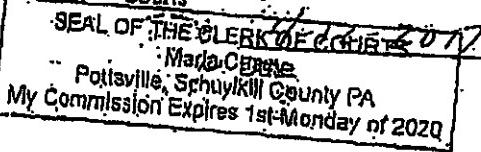
The authority in charge of the County Jail in which the party is incarcerated shall promptly notify the sheriff's office and the Court that the individual is being held pursuant to the bench warrant.

This warrant is issued because the defendant failed to appear at Magisterial District Judge Christina E. Hale's Office on February 21, 2017 for a preliminary hearing. The defendant's bail shall be forfeited.

Pursuant to Pa.R.Crim.P. 150(A)(5)(b), the individual shall not be detained in the County Jail without a hearing on this bench warrant longer than 72 hours, or the close of the next business day. If the 72 hours expires on a non-business day..

Certified from the records  
 this 12th day of April, 2017

Clerk of Courts



BY THE COURT:

Judge William E. Baldwin

CP-64-CR-000293-2017

54-BA-0000368-2017



Edward Thomas Kennedy

CPCMS 2093

Printed: 04/12/2017 3:09:50PM

Exhibit 2

Page 1 of 2.

## Former Gilberton police chief acquitted of charges he harassed councilman

**M** mcall.com/news/nationworld/pennsylvania/mc-former-gilberton-police-chief-acquitted-of-charges-harassed-councilman-20160825-story.html

 For the second time in three days, former Gilberton police chief and North Schuylkill school board member Mark Kessler walked out of Schuylkill County Courthouse a free man on Wednesday after a jury acquitted him of harassing a borough councilman in August 2015 in a Frackville store.

Kessler, 44, of Frackville, did not react as the jury of seven women and five men found him not guilty of harassment after deliberating less than 30 minutes to end the one-day trial over which Judge Jacqueline L. Russell presided.

"We are extremely pleased with the jury verdict. This marks the end of a long and unfair journey for Mr. Kessler," his lawyer, Robert J. Kirwan II, of Reading, said after the verdict.

Frackville borough police had charged Kessler with harassing Councilman William Creasy about 7 p.m. Aug. 19, 2015, at Boyer's Food Market, 550 W. Oak St.

"Mr. Kessler comes over, runs into me with his chest" and warned him about allegedly posting things on the Internet about his daughter, Creasy testified. "I didn't retaliate."

"Were you surprised about this confrontation?" Assistant District Attorney David J. Rice asked Creasy.

"Yes, I was," Creasy answered.

"Did you bump him back?"

"No."

"Did you do anything ... to cause this event to occur?"

"No, I did not."

On cross-examination, Kirwan challenged Creasy, getting him to say that he does not use the Internet but later getting him to say he does. Creasy also acknowledged using a vile term about Frackville and making other questionable posts.

Creasy said he did not suffer any pain as a result of the incident.

Sandra Frantz, a relative of Creasy who was working at Boyer's, testified Kessler made a threatening remark to the councilman.

"I know where you live. You better watch your back," is what Kessler said, Frantz testified.

She denied discussing the matter with Creasy.

Exhibit 2

Page 2 of 2.

Kessler testified he was shopping at Boyer's when Creasy started talking about him. He said he started going toward Creasy in order to get between him and his daughter.

"We did slightly touch," Kessler said. "That was it. I never said 'watch your back' or 'watch yourself!'"

In his closing argument, Rice said neither Creasy nor Kessler was blameless, but only the latter did anything criminal.

"What we have here is two adults acting like children, but one adult took it too far," he said.

However, jurors accepted Kirwan's argument that prosecutors did not offer anywhere near enough evidence to convict his client, emphasizing that no one could find the tape of the incident that Boyer's had provided.

"The best piece of evidence, the commonwealth lost. They didn't keep track of the evidence," he said. "It's a garbage case."

Rice declined to comment on the case after the verdict, while Kirwan said justice had been done for his client.

"He's looking forward to putting the entire mess behind him. We are not ruling out the possibility of a federal civil rights action against the borough, (prosecuting police Patrolman Philip C.) Petrus, Borough Councilman Creasy and (borough police) Chief (Marvin) Livergood," Kirwan said.

Another jury on Monday had found Kessler not guilty of terroristic threats and harassment in connection with an alleged road rage incident on Aug. 22, 2015, on Route 61 between Saint Clair and Frackville. Russell, who also presided over that trial, found him not guilty of disorderly conduct.

Kessler became enmeshed in controversy in mid-July 2013 when he posted two homemade videos to YouTube of him firing automatic weapons and using profanity. Gilberton suspended Kessler, saying the weapons were borough property and the chief did not have the right to use them in the videos.

In February 2014, Kessler retired and the borough abolished its police department.

Kessler did not run for re-election in 2015 to the school board.